

**Minutes of Meeting
Grafton Planning Board
July 22, 2013**

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A regular meeting of the Grafton Planning Board was held on July 22, 2013 in Conference Room A at the Grafton Municipal Center, 30 Providence Road, Grafton, MA. Present for the meeting were Chairman David Robbins, Vice-Chair Michael Scully, Clerk Edward Prisby, Robert Hassinger, Sargon Hanna and Associate Member Matthew Often. Staff present was Town Planner Stephen Bishop and Assistant Planner Ann Morgan.

Chairman Robbins called the meeting to order at 7:00 p.m., welcoming Mr. Often to his first meeting as Associate Member of the Planning Board and congratulating Mr. Prisby on the birth of his new son this month.

ACTION ITEM 1-A – REQUEST FOR PLANNING BOARD PUBLIC HEARING DETERMINATION UNDER ZBL SECTION 1.3.3.6 REGARDING SITE PLAN 2013-1 MICHAEL NOEL (D/B/A NOEL’S AUTO SALES, INC.) – 218 WORCESTER STREET

Chairman Robbins pointed out that the Board needed to determine whether or not this Site Plan submission required public notice publication/notification through the public hearing process associated with special permit submissions. Mr. Hassinger noted that this type of application does not arise very often and asked when the last submission actually was. Mr. Bishop was not sure, but thought that the day care site plan submission in the “Magnolia Farms” Subdivision may have been the last application submitted that did not require a public hearing. Mr. Bishop remarked that the By-Law requires the Board look at the size and scope of the project to determine whether it is large enough and has enough impact on the area to warrant the scheduling of a public hearing. Mr. Hassinger inquired if the project would still require professional Engineering review and input if a public hearing is not required. Mr. Bishop noted that the review of the project would be the same, only no requirement of public hearing notice other than the Planning Board agenda. Mr. Scully added that the applicant has filed an NOI with the Conservation Commission for August 6 and the Board could discuss their findings at the next Planning Board meeting on August 12. Mr. Bishop pointed out that the Board can only deny a site plan application if there is a problem that is not solvable. The Board discussed the submission and generally agreed that they had already reviewed most of the material being submitted from a past submission and did not see a reason to require a public hearing.

MOTION by Mr. Hassinger, **SECOND** by Mr. Hanna, to determine that a public hearing was not required for Site Plan 2013-1. **MOTION** carried unanimously 5 to 0.

Chairman Robbins stated the Board would place the site plan review on the August 12, 2013 Planning Board agenda.

DISCUSSION ITEM 2-A – ZBL AMENDMENTS

Mr. Bishop informed the Board that he had done an extensive review of the frontage by-laws for other towns, ending up with the exact language draft from the towns of Tewksbury and Northborough. Mr. Bishop pointed out that this issue has created problems, even lawsuits, for the Town in the past; and that this is an opportunity to have the By-Law consistent with the

subdivision control. Mr. Hassinger expressed concerns for access in cases where corner lots have frontage from both streets, and questioned whether there could be clearer language on this issue. The Board discussed changing the use of the word principal to primary for better clarification; and leaving out the word legal for the frontage which appears to create the problem of a definition incorporating a regulation. Mr. Bishop stated he would clean up the language and get more clarity on the corner lots issue, including checking with other communities' language. The Board expressed concerns of agreement on the language being submitted to the Board of Selectmen for the proposed amendment in time for a public hearing prior to the October Town Meeting.

MAJOR RESIDENTIAL SPECIAL PERMIT (MRSP 2013-2) "GRAFTON HILL"
SUBDIVISION – WESTERLY SIDE GRAFTON LLC (APPLICANT) – WESTERLY
SIDE GRAFTON LLC, ROCKY ROAD REALTY TRUST, ROBERT B. MCINNIS &
ABBY MCINNIS TRUST (OWNERS)

Chairman Robbins opened the public hearing. Present for the applicant was Attorney Joseph Antonellis and Engineer George Connors of Connorstone Engineering.

Attorney Antonellis informed the Board they should have received correspondence from the Conservation Commission regarding the possibility of approval of the conceptual Conventional Subdivision plan off of Worcester Street and Clearview Street, based on the plans and report submitted to the Planning Board. Attorney Antonellis stated he they had conducted a requested habitat study including a detailed analysis chart showing the wetland and replication and was confident they had complied with the regulations. Attorney Antonellis noted that additionally he had submitted case law from Land Court supporting the fact that the applicant had met the burden to adequately show the project was possible. Mr. Hassinger argued that he was not convinced that the proposed conventional plan meets the intended By-Law requirements when there appears to be reasonable alternate access to the upland, adding it does not support the alternate flexible plan with the number of lots and request for a major waiver of road length.. Attorney Antonellis continued to argue that the law states that the applicant only needs to provide proof that the conventional plan "could" be approved to meet the By-Law requirements. Mr. Prisby remarked that considering all of the information submitted and reviewed, the entire procedure has not made a lot of sense to him, resulting in a waste of time and money. Mr. Hassinger continued to point out that the applicant has not complied with the purpose of the By-Law intention for choosing the flexible plan. Chairman Robbins added that the Board has to determine if the conventional plan is sufficient to meet the requirements to review the flexible plan; and if the plan does not, what does the Board need to ask for in order to meet the requirements. Attorney Antonellis stated that he envisions the artistic side of the special permit process which allows a developer to come in and develop a flexible subdivision with less disturbance to the area and more open space. Chairman Robbins noted that the observation is that all parties involved, including abutters, favor the flexible plan and not the conventional plan. Mr. Hassinger remarked that he believes this is the greatest stretch of the law the Board has ever seen. Mr. Scully added that the language "could potentially" in the Conservation Commission letter shed doubt at the very least, and further pointed out that the absence of a no response is not considered a positive yes. Mr. Hassinger reminded the Board that they are making a determination based on the information received, of which much is not definite and lacking the number of lots intended. The Board recognized that the certainty of much of the information can

only be obtained by a formal review of the conventional plan by the Conservation Commission, which will not be taking place.

Attorney Antonellis requested Chairman Robbins grant him a 5 minute break. Chairman Robbins received unanimous consent to grant a 5 minute break.

Attorney Antonellis returned to the public hearing announcing they were at an impasse again, stating they needed the Board to make a viable decision regarding the conventional plan. Mr. Hassinger stated he was not comfortable granting forty-something lots with a flexible plan that is not justified based on a postulated conventional plan. Chairman Robbins stated that the Conservation Commission has the discretion to approve the wetlands crossing, but it is not known if they actually would. Attorney Antonellis suggested to the Board that if that is what is required to move on, then they will leave tonight and file a Notice of Intent with the Conservation Commission. Chairman Robbins responded that the Board was reluctant to demand the applicant file an NOI for a plan he has no intention of developing. Mr. Hanna expressed concerns for the Board to find a way to move forward on this issue. Mr. Often asked if the Board could require a simple clarification of the letter from the Conservation Commission to eliminate the argument concerning the language interpretation. Mr. Scully pointed out that the Board did not wish to burden the applicant with the process of an additional filing to the Conservation Commission, adding he saw no other obvious way allowing resolution for the lot count. Mr. Hassinger suggested another avenue of requesting a joint meeting with the Conservation Commission to have a conversation regarding their correspondence and intent.

Attorney Antonellis stated he respectfully requests that the Planning Board make a request to the Conservation Commission for a joint meeting on August 12, 2013 at 7:30 p.m. to resolve the situation and provide understanding of the correspondence submitted regarding this issue.

MOTION by Mr. Hassinger, **SECOND** by Mr. Hanna, to grant the applicant's written request to continue the public hearing to August 12, 2013 for a joint meeting with the Conservation Commission. **MOTION** carried unanimously 5 to 0.

STAFF REPORT

Mr. Bishop informed the Board that with regard to their request to discuss the issue of a moratorium concerning the medical marijuana issues, the Town Administrator and the Assistant Town Administrator, although initially interested in proceeding in that direction, have now decided not to follow that route. Mr. Scully noted that the EDC had taken no formal vote on the issue or sought any direct input on the issue, but had some concerns on information that the process is an "all-or-nothing" approach, resulting in a manufacturing facility automatically receiving permitting for a dispensary. Mr. Bishop restated that the word received is that the Town is not pursuing the moratorium avenue at this time. Chairman Robbins added that the Board should discuss whether they need to impose zoning restrictions on medical marijuana facilities, soliciting opinions of other Town Boards, and information from those who have some experience with issue.

Mr. Hassinger requested Mr. Bishop check into having Grafton be included on the list of affected communities for public hearing input regarding the proposed McCracken Road Gambling Casino in Millbury.

BILLS

The bills were circulated and signed.

MINUTES OF PREVIOUS MEETINGS

MOTION by Mr. Prisby, **SECOND** by Mr. Scully, to approve the open session minutes of July 8, 2013 with the corrections noted. **MOTION** carried unanimously 5 to 0.

MOTION by Mr. Scully to adjourn the meeting.

DISCUSSION: Chairman Robbins did not recognize the adjournment motion and asked the Board if there were any further reports from Planning Board Representatives on Town Committees or CMRPC.

Mr. Hanna announced that he had been appointed to the Capital Improvement Planning Committee as a citizen and not as a Planning Board representative.

Chairman Robbins recognized Mr. Scully's motion to adjourn.

SECOND by Mr. Hanna. **MOTION** carried unanimously 5 to 0.

The meeting was adjourned at 8:58 p.m.

EXHIBITS

- **Discussion Item 1A: Request for Planning Board public hearing determination under ZBL Section 1.3.3.6 regarding Site Plan 2013-1 Michael Noel (d/b/a Noel's Auto Sales, Inc.) – 218 Worcester Street**
 - Application for Site Plan Approval 2013-1; dated June 26, 2013, received July 9, 2013; 1 page.
 - Correspondence, Application for Site Plan Approval, Michael F. Noel, 218 Worcester Street, Grafton, MA; dated June 26, 2013, received July 9, 2013; 2 pages.
 - Plan Set, Noel's Auto Sales, Inc., 218 Worcester Street, North Grafton; 11" x 17", black & white; prepared by Land Planning, Inc.; dated June 24, 2013, received July 9, 2013; six sheets as follows:
 - Sheet No. 1 Existing Conditions
 - Sheet No. 2: Existing Conditions
 - Sheet No. 3 Layout & Grading Plan
 - Sheet No. 4 Details
 - Sheet No. 5 Details
 - Sheet No. 6 Sedimentation & Erosion Control Plan

- Notice of Public Hearing Grafton Conservation Commission, Notice of Intent and Application for Wetlands Bylaw Permit filed by Michael Noel, Noel's Auto Sales, Inc., 218 Worcester Street, North Grafton; received June 22, 2013; 1 page.
- **Discussion Item 1A: ZBL Amendments**
 - Proposed Amendments to the Grafton Zoning By-Law, October 2013 Town Meeting; submitted by the Grafton Planning Department staff; no date; 1 page.
- **Item 5: Minutes of Previous Meeting**
 - Open session meeting minutes of July 8, 2013, 5 pages.
- **Public Hearing 9A: Major Residential Special Permit (MRSP 2013-2) "Grafton Hill - Westerly Side Grafton LLC (Applicant) – Westerly Side Grafton LLC, Rocky Road Realty Trust, Robert B. McInnis & Abby McInnis Trust (Owners)**
 - Correspondence from the Grafton Conservation Commission, Grafton Hill, dated and received July 3, 2013; 2 pages.



Edward Prisby, Clerk

